

Remarks

The above Amendments and these Remarks are in reply to the Office Action mailed August 12, 2004 in the above-identified patent application. A Petition for Extension of Time to Respond is submitted herewith, together with the appropriate fee.

Claims 1, 7, 11 and 17 were pending in the Application prior to the outstanding Office Action. In the Office Action, the Examiner rejected claims 1, 7, 11 and 17. The present Response amends claims 1 and 11, leaving for the Examiner's present consideration claims 1, 7, 11 and 17. Reconsideration of the rejections is requested.

I. OBJECTION TO THE SPECIFICATION

In the Office Action, the Examiner objected to the disclosure because "claim 1 contains the limitations 'a channel for the flow of air' and 'the channel' that have no proper support from the specification." Applicants respectfully traverse the objection.

Applicants suggest the objection has become moot given the current condition of claims 1 and 11, which recite a "second electrode includ[ing]...a tail extension." Such second electrodes find support in paragraph [0130] of the specification, which describes "second electrodes **242** [that] may have angled, Z-shaped or other corrugated extensions...the extensions **294** enhance the particle capture efficiency of the electrode assembly **220**." Because the claims no longer refer to "a channel for the flow of air" and "the channel", Applicants believe the objection to be overcome. Applicants therefore request withdrawal of the objection.

II. REJECTION UNDER 35 U.S.C. §112

Claims 1, 7, 11, and 17

The Examiner rejected claims 1, 7, 11, and 17 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Applicants respectfully traverse the rejection.

Applicants have amended claims 1 and 11 to more clearly define the subject matter which is claimed. Applicants asserts that the clarifying amendment is not intended to narrow the scope of the claim, nor does it effectively narrow the scope of the claim, and as such it is believed that the amendment does not affect applicability of doctrine of equivalents under the recent *Festo* decision.

In the Office Action, the Examiner states that claim 1 contains the limitations "the second electrode includes two or more surfaces defining a channel for the flow of air" and "the channel further redirects the flow of air at an angle away from the downstream direction" that have no support in the disclosure as

originally presented. Applicants argue that such structure is inherent to the geometry of the second electrode as described in the Specification. However, as described above in Section I, claim 1 recites a “second electrode [that] includes a tail extension...wherein the tail extension redirects the flow of air at an angle away from the downstream direction.” Support for this limitation can be found in paragraph [0130], which describes “second electrodes 242 [that] may have angle...it is within the spirit and scope of the invention for the extension 294 to comprise...a shape with a with a first upstream portion and a second downstream portion positioned *at an angle to the upstream portion*.” The tail extension redirects the air flow, and the forward moment of the airborne particles carry the particle into the tail extension, improving the particle capture ability of the second electrodes.

Further, the Examiner describes claim 11 as containing the limitations “‘the air outlet having a first width’, ‘an ion generating arrangement’, and ‘.....having a second width smaller than the first width’ that have no support in the disclosure as originally presented.” However, as presented claim 11 recites a “second electrode including a nose and a tail extension....wherein the tail extension redirects the flow of air at an angle away from the downstream direction” which finds support in paragraph [0130], as described above, and does not recite “the air outlet having a first width”, “an ion generating arrangement”, and “.....having a second width smaller than the first width.”

Finally, the Examiner describes claim 11 as being “indefinite due to the use of ‘ion generating arrangement’. If Applicant means to indicate this as an ion generating unit, please state so.” Applicants assert that recitation of an “ion generator” is not indefinite under 35 U.S.C. §112.

Since claims 1 and 11 are fully supported by the disclosure contained in the Specification, claims 1 and 11 comply with the written description requirement of 35 U.S.C. §112. Claims 7 and 17 depend from claims 1 and 11, and include additional features fully supported by the specification. As such, claims 7 and 17 comply with the written description requirement of 35 U.S.C. §112. Accordingly, Applicants respectfully request the withdrawal of this rejection.

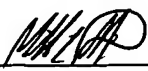
III. CONCLUSION

In light of the above, it is respectfully submitted that all of the claims now pending in the subject patent application should be allowable, and a Notice of Allowance is requested. The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting issuance of a patent.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: 12/13/04

By: 
Michael L. Robbins
Reg. No. 54,774

Customer No. 23910
FLIESLER MEYER LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
Telephone: (415) 362-3800